

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ARTURO CHAIREZ,

Petitioner,

v.

DARREL ADAMS, Warden,

Respondent.

No. C 07-5767 MMC (PR)

**ORDER DENYING PETITIONER'S
MOTION FOR RELIEF FROM
JUDGMENT**

(Docket No. 26)

On November 14, 2007, petitioner, a California prisoner proceeding pro se, filed the above-titled petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On February 9, 2009, the Court granted respondent's motion to dismiss the petition as untimely under 28 U.S.C. § 2244, and judgment was entered that same date. Thereafter, petitioner filed a motion for reconsideration of the order of dismissal. The Court, by order filed April 13, 2009, denied the motion because petitioner did not allege any grounds justifying relief under either Rule 59(e) or Rule 60(b) of the Federal Rules of Civil Procedure. (Docket No. 25.)

Petitioner has now filed a motion for relief from judgment, in which motion he sets out the lengthy procedural history of the instant action and the contents of the Court's rulings herein; petitioner does not, however, allege grounds justifying his entitlement to relief under

1 Rule 60(b).¹ In particular, petitioner argues the Court should not have granted respondent's
2 motion to dismiss; in so doing, he asserts the same arguments put forth in his opposition to
3 respondent's motion to dismiss, which arguments the Court found did not entitle petitioner to
4 equitable tolling of the statute of limitations. (Docket No. 22 at 3-6.) Additionally,
5 petitioner raised the same arguments in his prior motion for reconsideration, which motion
6 the Court denied.

7 Petitioner alleges no other ground for relief under Rule 60(b), nor is such apparent
8 from the motion. Specifically, petitioner's motion contains no allegation as to newly-
9 discovered evidence, nor does it set forth any mistake, inadvertence, surprise, excusable
10 neglect, fraud by the adverse party, voiding of the judgment, or any other reason justifying
11 relief. See Fed. R. Civ. P. 60(b).

12 Accordingly, the motion for relief from judgment is hereby DENIED. The Court will
13 not consider any further motions for reconsideration or relief from judgment based on the
14 same arguments raised in the instant motion.

15 This order terminates Docket No. 26.

16 IT IS SO ORDERED.

17 DATED: August 2, 2010

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MAXINE M. CHESNEY
United States District Judge

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¹Rule 59(e) is not applicable because the time for filing a motion for reconsideration under that Rule has long passed. See Fed. R. Civ. P. 59(e) (providing motion must be filed no more than ten days following entry of judgment).